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CLERK US DISTRICT COURT  
NORTHERN DIST. OF TX  
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1 Peter Strojnik  
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3 Phoenix, Arizona 85020  
4 Telephone: (602) 524-6602  
5 ps@strojnik.com

6 **UNITED STATES DISTRICT COURT**  
7 **FOR THE NORTHERN DISTRICT OF TEXAS**  
8 **Dallas Division**

9 **CASE NO.:**

10 **319-CV1369-G**

11 Peter Strojnik

12 Plaintiff,

13 vs.

14 HRI Lodging, Inc. dba Hilton Garden Inn

15 Defendant.

16 **COMPLAINT**

17  
18 1. Plaintiff brings this action pursuant to the (1) Americans with Disabilities Act, 42  
19 U.S.C. §12101 *et seq.* and corresponding regulations, 28 CFR Part 36 and Department  
20 of Justice Standards for Accessible Design ("ADAAG"), and (2) common law of  
21 negligence per se.

22 **PARTIES**

23 2. Plaintiff Peter Strojnik is a veteran and a disabled person as defined by the ADA.  
24 3. Plaintiff is a single man currently residing in Maricopa County, Arizona. Plaintiff is  
25 and, at all times relevant hereto has been, legally disabled by virtue of a severe right-  
26 sided neural foraminal stenosis with symptoms of femoral neuropathy, prostate cancer  
27 and renal cancer, degenerative right knee and arthritis and is therefore a member of a  
28 protected class under the ADA.

- 1 4. Plaintiff suffers from physical impairments described above which impairments  
2 substantially limit his major life activities. Plaintiff walks with difficulty and pain  
3 and requires compliant mobility accessible features at places of public  
4 accommodation. Plaintiff's impairment is constant, but the degree of pain is episodic  
5 ranging from dull and numbing pain to extreme and excruciating agony.
- 6 5. Plaintiff is retired and likes to spend his retirement years traveling the United States.
- 7 6. Defendant, owns, operates leases or leases to a lodging business ("Hotel") located at  
8 1600 Pacific Ave., Dallas TX 75201 which is a public accommodation pursuant to 42  
9 U.S.C. § 12181(7)(A).

### JURISDICTION

- 10 7. District Court has jurisdiction over this case or controversy by virtue of 28 U.S.C. §§  
11 28-1331 and 42 U.S.C. § 12188 and 28 U.S.C. § 1367.
- 12 8. Plaintiff brings this action as a private attorney general who has been personally  
13 subjected to discrimination on the basis of his disability, *see* 42 U.S.C. §12188 and  
14 28 CFR §36.501.
- 15 9. This Court has continuing subject matter jurisdiction by virtue of, *inter alia*,  
16 Plaintiff's claim for equitable nominal damages.
- 17 10. Venue is proper pursuant to 28 U.S.C. § 1391.
- 18 11. The ADAAG violations in this Verified Complaint relate to barriers to Plaintiffs  
19 mobility. This impairs Plaintiff's full and equal access to the Hotel which, in turn,  
20 constitutes discrimination satisfying the "injury in fact" requirement of Article III of  
21 the United States Constitution.
- 22 12. Plaintiff is deterred from visiting the Hotel based on Plaintiff's knowledge that the  
23 Hotel is not ADA or State Law compliant as such compliance relates to Plaintiff's  
24 disability.
- 25 13. Plaintiff intends to visit Defendant's Hotel at a specific time when the Defendant's  
26 noncompliant Hotel becomes fully compliant with ADAAG; just as a disabled  
27 individual who intends to return to a noncompliant facility suffers an imminent injury  
28 from the facility's existing or imminently threatened noncompliance with the ADA, a

1 plaintiff who is deterred from patronizing a hotel suffers the ongoing actual injury of  
2 lack of access to the Hotel.

3 **COUNT ONE**  
4 **Violation of Plaintiff's Civil Rights under the ADA**

5 14. Plaintiff realleges all allegations heretofore set forth.

6 15. By virtue of his disability, Plaintiff requires an ADA compliant lodging facility  
7 particularly applicable to his mobility, both ambulatory and wheelchair assisted.

8 16. Plaintiff intended to visit Dallas, Texas for a visit between February 20 -22, 2019.

9 17. Plaintiff consulted booking website  
10 [https://hiltongardeninn3.hilton.com/en/hotels/texas/hilton-garden-inn-downtown-dallas-](https://hiltongardeninn3.hilton.com/en/hotels/texas/hilton-garden-inn-downtown-dallas-DALPAGI/about/amenities.html)  
11 DALPAGI/about/amenities.html which admitted that the hotel is not mobility ADA  
12 compliant:

13 **The Following Features Are Not Available:**

- 14 • Accessible concierge desk  
15 • Accessible route from the hotel's accessible public entrance to the spa  
16 • Accessible transportation with advance notice  
17 • Closed captioning on televisions or closed captioning decoders  
18 • Van-accessible parking in the self-parking facility

19 18. Thereafter, Plaintiff personally visited the Hotel to determine whether it was  
20 accessibility suitable for his needs and discovered that it was replete with architectural  
21 barriers as more fully disclosed in Addendum A.

22 19. Defendant has violated the ADA by denying Plaintiff equal access to its public  
23 accommodation on the basis of his disability as outlined above and as outlined in  
24 Addendum A.

25 20. The ADA violations described in Addendum A relate to Plaintiff's disability and  
26 interfere with Plaintiff's full and complete enjoyment of the Hotel.

27 21. As a result of the deficiencies described above, Plaintiff declined to book a room at  
28 Defendant's Hotel.

22. The removal of accessibility barriers listed above is readily achievable.

1 23. As a direct and proximate result of ADA Violations, Defendant's failure to remove  
2 accessibility barriers prevented Plaintiff from equal access to the Defendant's public  
3 accommodation.

4 **WHEREFORE**, Plaintiff prays for all relief as follows:

- 5 A. Relief described in 42 U.S.C. §2000a – 3; and  
6 B. Relief described in 42 U.S.C. § 12188(a) and (b) and, particularly -  
7 C. Injunctive relief order to alter Defendant's place of public accommodation to  
8 make it readily accessible to and usable by ALL individuals with disabilities;  
9 and  
10 D. Requiring the provision of an auxiliary aid or service, modification of a  
11 policy, or provision of alternative methods, to the extent required by  
12 Subchapter III of the ADA; and  
13 E. Equitable nominal damages; and  
14 F. For costs, expenses and attorney's fees; and  
15 G. All remedies provided for in 28 C.F.R. 36.501(a) and (b).

16 **COUNT TWO**

17 Negligence

18 24. Plaintiff realleges all allegations heretofore set forth.

19 25. Defendant had a duty to Plaintiff to remove ADA accessibility barriers so that Plaintiff  
20 as a disabled individual would have full and equal access to the public  
21 accommodation.

22 26. Defendant breached this duty.

23 27. Defendant is or should be aware that, historically, society has tended to isolate and  
24 segregate individuals with disabilities, and, despite some improvements, such forms  
25 of discrimination against individuals with disabilities continue to be a serious and  
26 pervasive social problem<sup>1</sup>.

27 28. Defendant knowingly and intentionally participated in this historical discrimination  
28 against Plaintiff, causing Plaintiff damage.

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<sup>1</sup> 42 U.S.C. § 12101(a)(2)

1 29. Discrimination against individuals with disabilities persists in the use and enjoyment  
2 of critical public accommodations<sup>2</sup>.

3 30. Defendant's knowing and intentional persistence in discrimination against Plaintiff is  
4 alleged, causing Plaintiff damage.

5 31. Individuals with disabilities, including Plaintiff, continually encounter various forms  
6 of discrimination, including outright intentional exclusion, the discriminatory effects  
7 of architectural, overprotective rules and policies, failure to make modifications to  
8 existing facilities and practices, exclusionary qualification standards and criteria,  
9 segregation, and relegation to lesser services, programs, activities, benefits, jobs, or  
10 other opportunities<sup>3</sup>.

11 32. Defendant's knowing and intentional discrimination against Plaintiff reinforces above  
12 forms of discrimination, causing Plaintiff damage.

13 33. Census data, national polls, and other studies have documented that people with  
14 disabilities, as a group, occupy an inferior status in our society, and are severely  
15 disadvantaged socially, vocationally, economically, and educationally<sup>4</sup>.

16 34. Defendant's knowing and intentional discrimination has relegated Plaintiff to an  
17 inferior status in society, causing Plaintiff damage.

18 35. The Nation's proper goals regarding individuals with disabilities are to assure equality  
19 of opportunity, full participation, independent living, and economic self-sufficiency  
20 for such individuals<sup>5</sup>.

21 36. Defendant's knowing, and intentional discrimination has worked counter to our  
22 Nation's goals of equality, causing Plaintiff damage.

23 37. Continued existence of unfair and unnecessary discrimination and prejudice denies  
24 people with disabilities the opportunity to compete on an equal basis and to pursue  
25 those opportunities for which our free society is justifiably famous, and costs the  
26

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27 <sup>2</sup> 42 U.S.C. §12101(a)(3)

28 <sup>3</sup> 42 U.S.C. §12101(a)(5)

<sup>4</sup> 42 U.S.C. §12101(a)(6)

<sup>5</sup> 42 U.S.C. §12101(a)(7)

1 United States billions of dollars in unnecessary expenses resulting from dependency  
2 and nonproductivity<sup>6</sup>.

3 38. Defendant's knowing and intentional unfair and unnecessary discrimination against  
4 Plaintiff demonstrates Defendant's knowing and intentional damage to Plaintiff.

5 39. Defendant's breach of duty caused Plaintiff damages including, without limitation,  
6 the feeling of segregation, discrimination, relegation to second class citizen status the  
7 pain, suffering and emotional damages inherent to discrimination and segregation and  
8 other damages to be proven at trial.

9 40. By violating Plaintiff's civil rights, Defendant engaged in intentional, aggravated and  
10 outrageous conduct.

11 41. The ADA has been the law of the land since 1991, but Defendant engaged in a  
12 conscious action of a reprehensible character, that is, Defendant denied Plaintiff his  
13 civil rights, and cause him damage by virtue of segregation, discrimination, relegation  
14 to second class citizen status the pain, suffering and emotional damages inherent to  
15 discrimination and segregation and other damages to be proven at trial

16 42. Defendant either intended to cause injury to Plaintiff or defendant consciously  
17 pursued a course of conduct knowing that it created a substantial risk of significant  
18 harm to Plaintiff.

19 43. Defendant is liable to Plaintiff for punitive damages in an amount to be proven at trial  
20 sufficient, however, to deter this Defendant and others similarly situated from  
21 pursuing similar acts.

22 **WHEREFORE**, Plaintiff prays for relief as follows:

- 23 A. For finding of negligence; and  
24 B. For damages in an amount to be proven at trial; and  
25 C. For punitive damages to be proven at trial; and  
26 D. For such other and further relief as the Court may deem just and proper.

27 **REQUEST FOR TRIAL BY JURY**

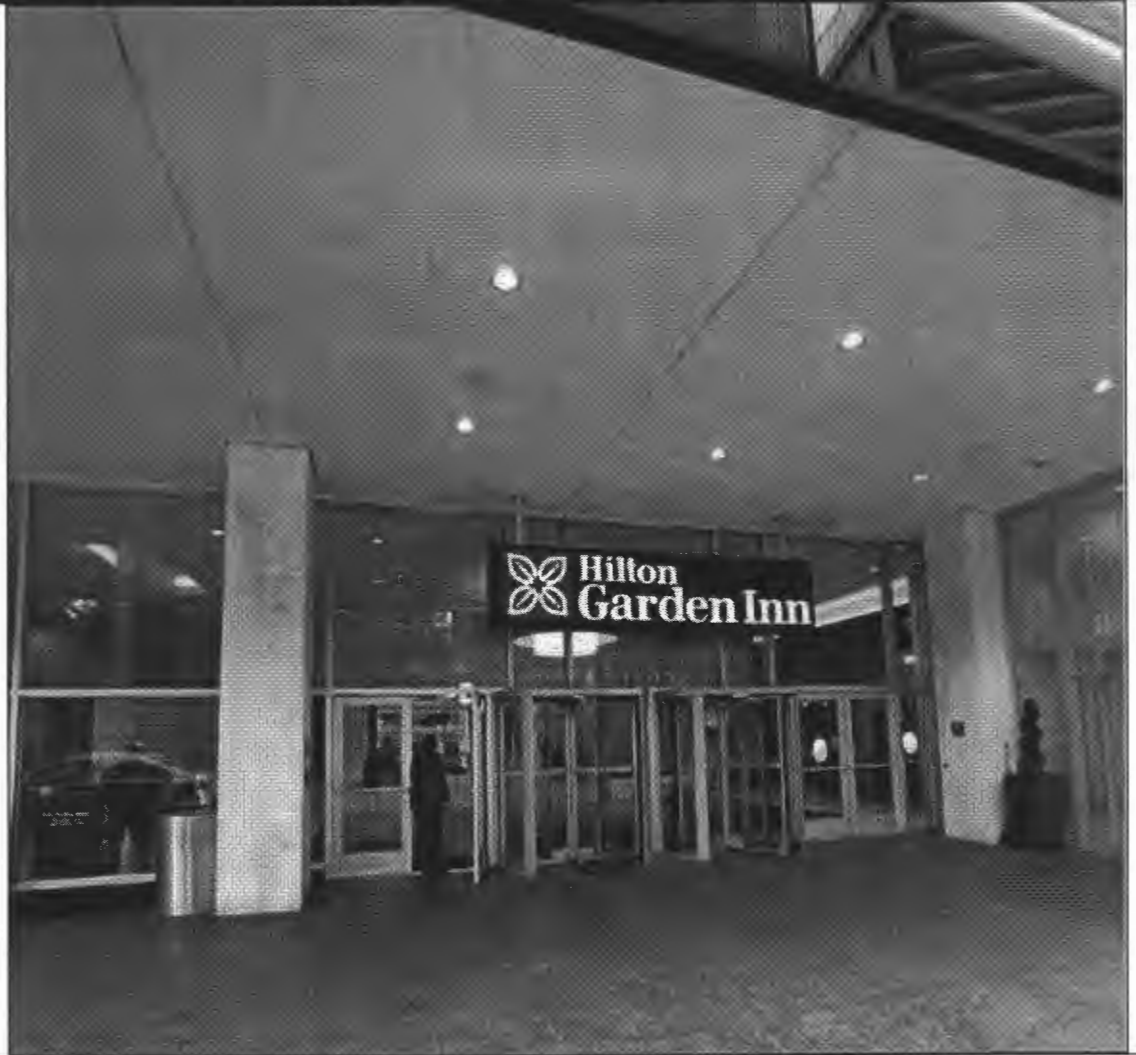
28 Plaintiff respectfully requests a trial by jury in issues triable by a jury.

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<sup>6</sup> 42 U.S.C. §12101(a)(8)

**ADDENDUM A**

**ADA VIOLATIONS  
PERSONALLY ENCOUNTERED BARRIERS**



**Hotel Identification.**



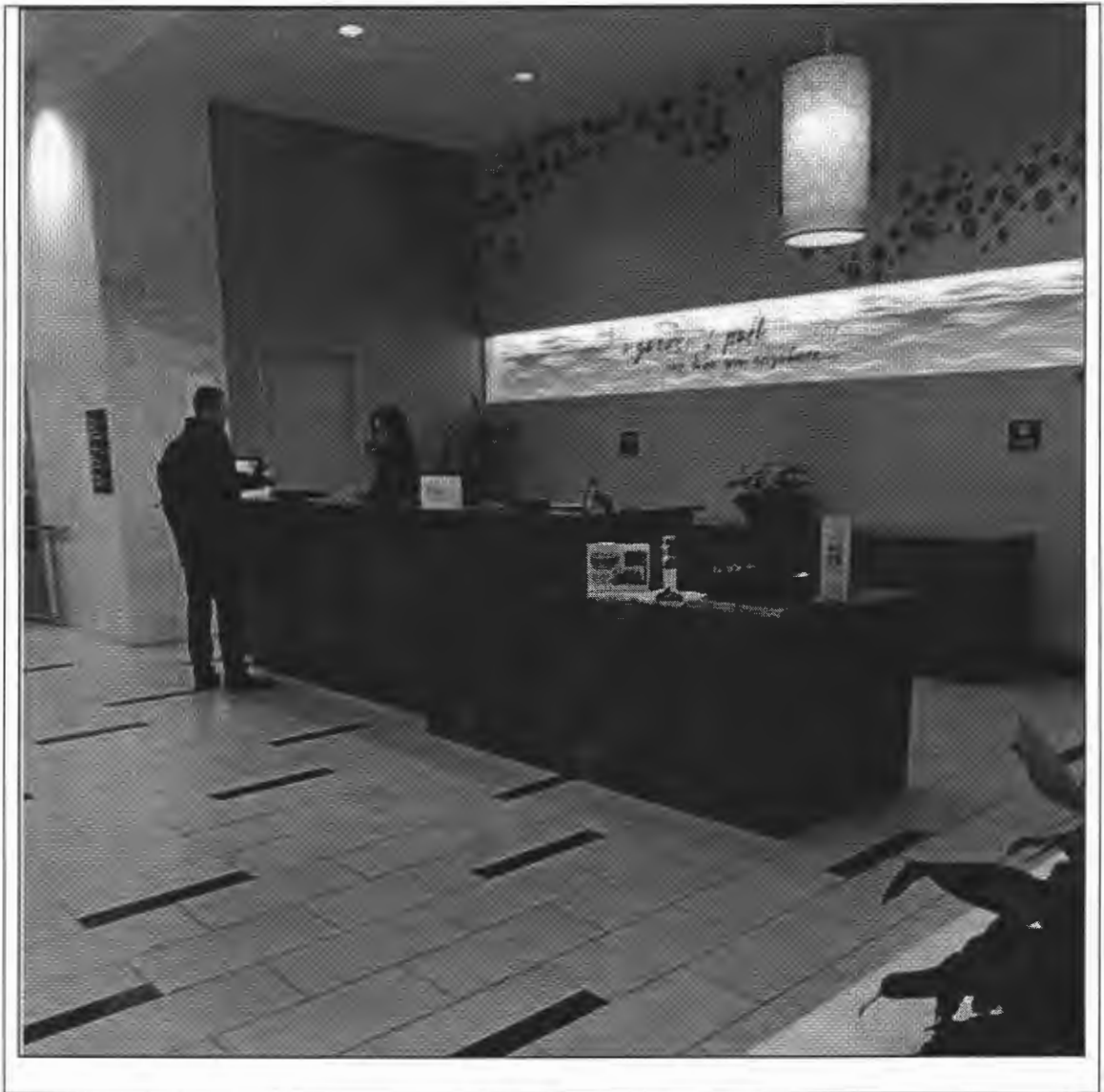
**ADA Deficiency:** No marked passenger drop off zone

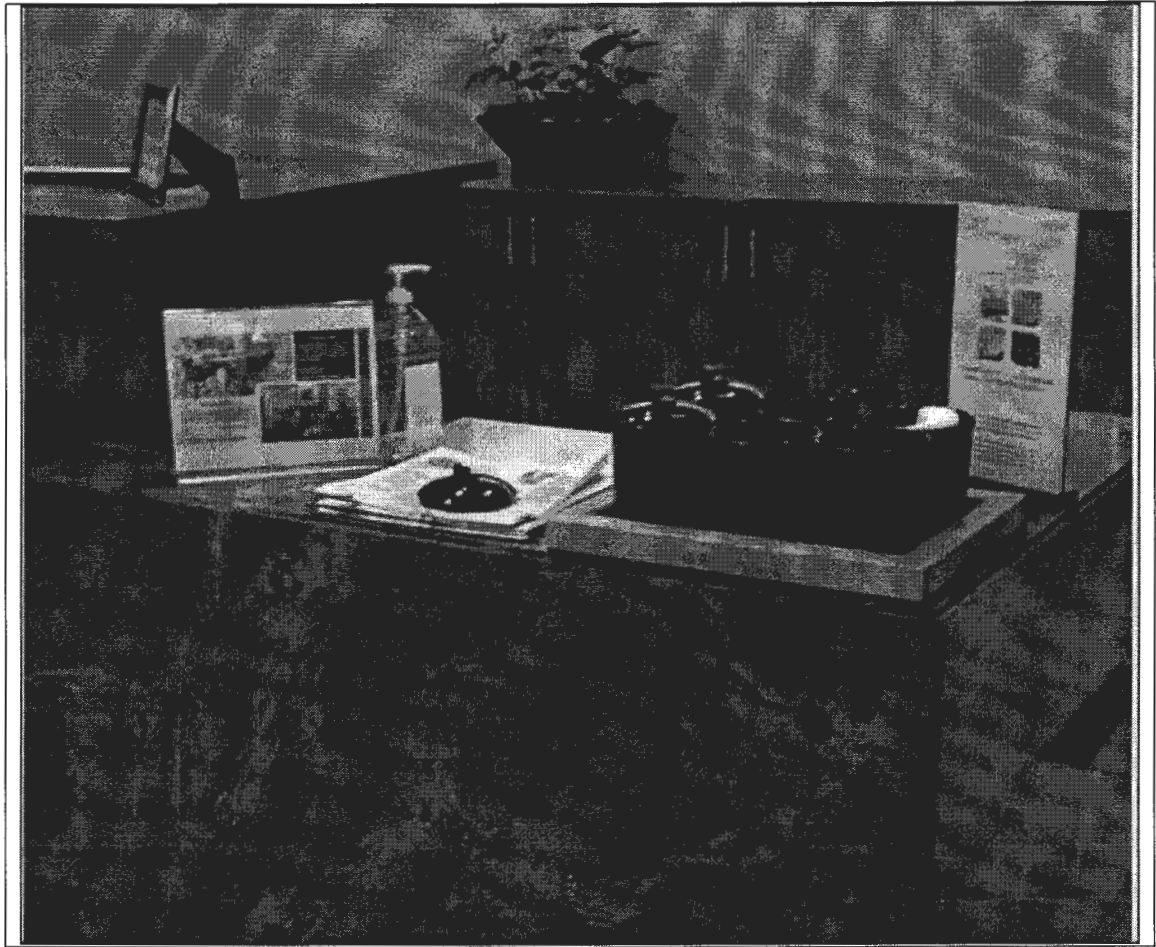
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**ADA Deficiency:** Inaccessible entry with no signage to accessible route.

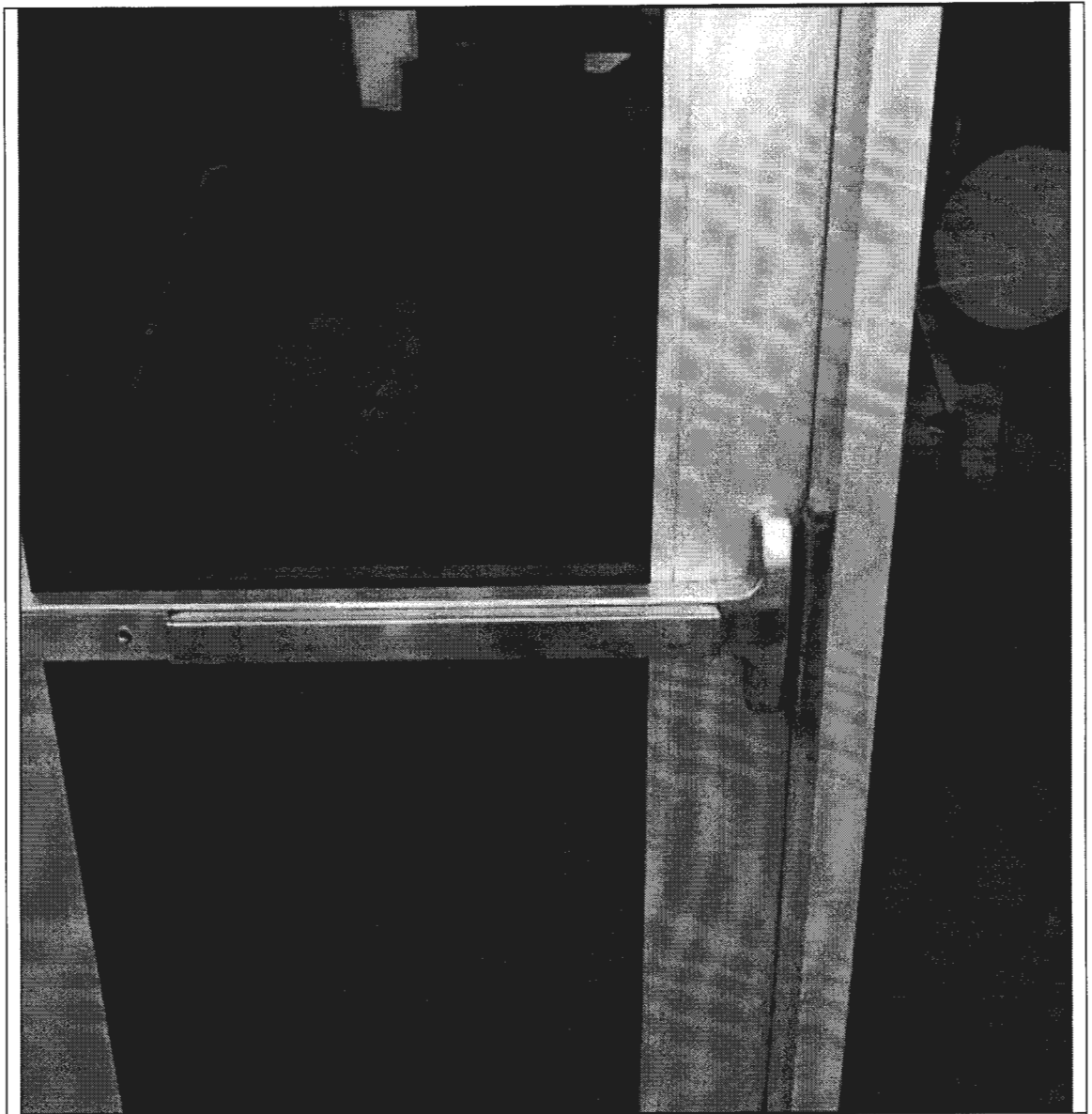




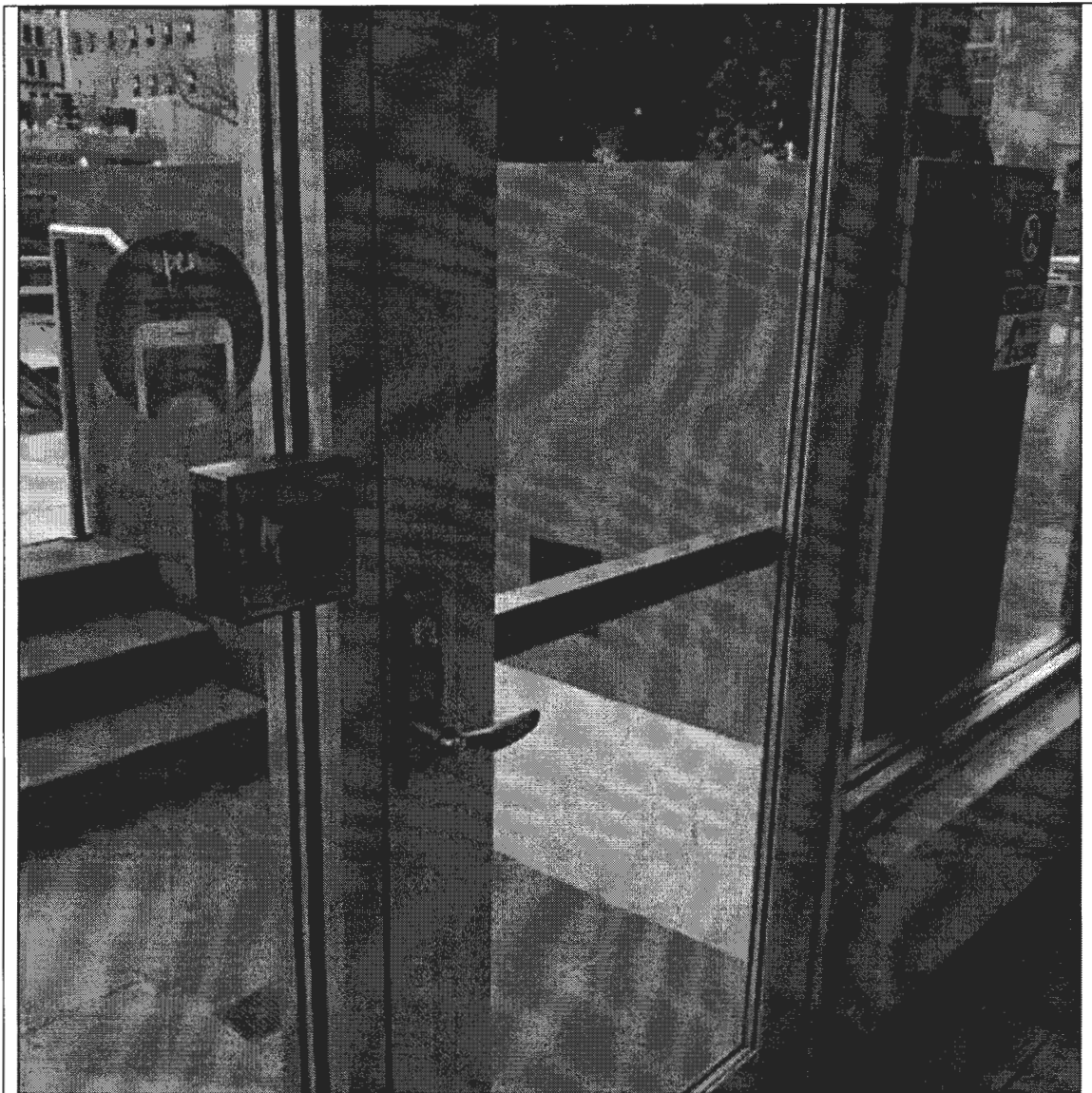
**ADA Deficiency:** Inaccessible check in counter.



**ADA Deficiency: Improperly configured pool lift.**



**ADA Deficiency:** More than 15 lbs to open door to pool



ADA Deficiency: Door to pool closes in 4 seconds.

<https://hiltongardeninn3.hilton.com/en/hotels/texas/hilton-garden-inn-downtown-dallas-DALPAGI/about/amenities.html>

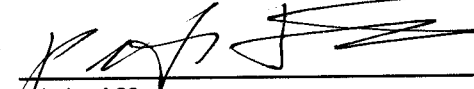
The Following Features Are Not Available:

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- Accessible route from the hotel's accessible public entrance to the spa
- Accessible transportation with advance notice
- Closed captioning on televisions or closed captioning decoders
- Van-accessible parking in the self-parking facility

END

1 DATED this 3<sup>rd</sup> day of June 2019.

2 **PETER STROJNIK**

3   
4 Plaintiff

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The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**  
  
Peter Strojnik  
  
**(b)** County of Residence of First Listed Plaintiff **Maricopa, AZ**  
*(EXCEPT IN U.S. PLAINTIFF CASES)*  
  
**(c)** Attorneys (Firm Name, Address, and Telephone Number)  
Peter Strojnik (pro se)  
7847 N. Central Avenue  
Phoenix, AZ 85020

**DEFENDANTS**  
  
HRI Lodging, Inc. dba Hilton Garden Inn  
  
County of Residence of First Listed Defendant  
*(IN U.S. PLAINTIFF CASES ONLY)*  
  
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.  
  
Attorneys (If Known)  
  
**319 - CV1369 - G**

CLERK U.S. DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS

**II. BASIS OF JURISDICTION** (Place an "X" in one box only)  
  
☐ 1 U.S. Government Plaintiff  
  
☒ 3 Federal Question (U.S. Government Not a Party)  
  
☐ 2 U.S. Government Defendant  
  
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in one box for Plaintiff and One Box for Defendant)  
*(For Diversity Cases Only)*  

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

**IV. NATURE OF SUIT** (Place an "X" in one box only)  

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130-Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice  <b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability  <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other  <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act  <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157  <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark  <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))  <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes

**REAL PROPERTY**  
☐ 210 Land Condemnation  
☐ 220 Foreclosure  
☐ 230 Rent Lease & Ejectment  
☐ 240 Torts to Land  
☐ 245 Tort Product Liability  
☐ 290 All Other Real Property

**CIVIL RIGHTS**  
☐ 440 Other Civil Rights  
☐ 441 Voting  
☐ 442 Employment  
☐ 443 Housing/Accommodations  
☐ 445 Amer. w/Disabilities - Employment  
☒ 446 Amer. w/Disabilities - Other  
☐ 448 Education

**PRISONER PETITIONS**  
**Habeas Corpus:**  
☐ 463 Alien Detainee  
☐ 510 Motions to Vacate Sentence  
☐ 530 General  
☐ 535 Death Penalty  
**Other:**  
☐ 540 Mandamus & Other  
☐ 550 Civil Rights  
☐ 555 Prison Condition  
☐ 560 Civil Detainee - Conditions of Confinement

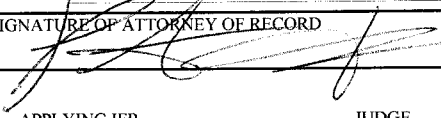
**V. ORIGIN** (Place an "X" in one box only)  
☒ 1 Original Proceeding  
☐ 2 Removed from State Court  
☐ 3 Remanded from Appellate Court  
☐ 4 Reinstated or Reopened  
☐ 5 Transferred from Another District (specify)  
☐ 6 Multidistrict Litigation - Transfer  
☐ 8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**  
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
**42 USC 12101**  
Brief description of cause:  
**ADA**

**VII. REQUESTED IN COMPLAINT:**  
☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.  
**DEMAND \$**  
CHECK YES only if demanded in complaint:  
**JURY DEMAND:** ☒ Yes ☐ No

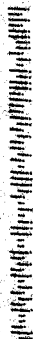
**VIII. RELATED CASE(S) IF ANY** (See instructions):  
JUDGE  
DOCKET NUMBER

DATE  
6/3/2019  
FOR OFFICE USE ONLY

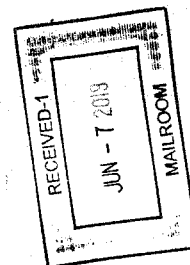
SIGNATURE OF ATTORNEY OF RECORD  


RECEIPT #  
AMOUNT  
APPLYING IFP  
JUDGE  
MAG. JUDGE





Peter Strojnik  
7847 N. Central Avenue  
Phoenix, Arizona 85020



United States District Court  
Clerk's Office  
1100 Commerce Street, Room 1452  
Dallas, TX 75242